IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 156 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 28/12/2004 in WP NO : 22960 OF 2004 on the file of the High Court.)

Between:

1 M.A. Samee, S/o. M.A. Khaleel,
R/o. Bhainsa, Bhainsa Mandal, Adilabad District.
2 S.K. Mobin, S/o S.K. Mujahid,
R/o. Bhainsa, Bhainsa Mandal, Adilabad District.
3 M.A. Nayeem, S/o. M.A. Khaleel,
R/o. Bhainsa, Bhainsa Mandal, Adilabad District.
4 M.A. Basheer, S/o. M.A. Mahaboob Sab,
R/o. Bhainsa, Bhainsa Mandal, Adilabad District.
5 M.A. Saleem, S/o. M.A. Mahaboob Sab,
R/o. Bhainsa, Bhainsa Mandal, Adilabad District.
6 M.A. Nayeem, S/o. M.A. Khaleel,
R/o. Bhainsa, Bhainsa Mandal, Adilabad District.
7 M.A Waheed, S/o. M.A. Mahaboob,
R/o. Bhainsa, Bhainsa Mandal, Adilabad District.
8 Shaik Nayeem, S/o. Shaik Ahmed,
R/o. Bhainsa, Bhainsa Mandal, Adilabad District.
9 M.A. Mujeeb, S/o. M.A. Babu,
R/o. Bhainsa, Bhainsa Mandal, Adilabad District.

..... APPELLANTS

AND

1 The Commissioner, Municipal Council, Bhainsa, Adilabad District.
2 The Chairman, Municipal Council, Bhainsa, Adilabad District.

.....RESPONDENTS

Counsel for the Appellants : MR.ANDAPALLI SANJEEV KUMAR

Counsel for the Respondents : MR.P.RADHAKRISHNA, Standing Counsel for Municipalities.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1 . The petitioners – appellants are petty shop-keepers carrying on their business in Vegetable Market in Bhainsa, Adilabad District. They filed writ petition against the action of the respondents when they were sought to be evicted to enable the respondents to construct pucca vegetable stalls. Writ petition of the writ petitioners was disposed of at the admission stage itself on the ground that owing to the unhygienic atmosphere prevailing in the market area, the Municipality is making construction of pucca vegetable stalls to provide basic amenities to the vendors and purchasers and also having regard to the fact that the respondents had agreed for considering the cases of the petitioners and other vendors carrying on their business for allotment of shops on priority basis. Direction was issued to the petitioners to vacate the premises within a period of two weeks to enable the Municipality to construct pucca vegetable market and after construction, to consider the cases of the

petitioners for allotment of shops on priority basis. This order was passed on 28.12.2004. Petitioners had the benefit of the time allowed by the learned single Judge, but still are not satisfied and have filed this appeal.

2. As the petitioners have not vacated pursuant to the order of the learned single Judge, there is hardly any equity in their favour. Learned counsel for the respondents points out that work order has already been awarded to the Contractor, who is waiting to commence construction. Construction cannot be commenced till the shop-keepers vacate the area and in case amount is not utilised before 31.03.2005, the funds will lapse and project will remain uncompleted and sufferance would be to the appellants and none else.

3. Learned counsel for the petitioners – appellants states that appellants as well as other vendors may be given time till 15.02.2005 and by that date they will withdraw from the mulgies and other areas from the present site to enable the respondents to raise construction and will not create any hurdle or obstacle during construction.

4. Considering the request, time till 15.02.2005 is granted to the appellants and other shop-keepers to vacate the premises in question, making it clear that such of the occupants who do not vacate and will not withdraw on or before 15.02.2005, their cases shall not be considered by the respondents for allotment on priority basis. Those who would comply with this order will alone have the right to have their cases duly considered for allotment on priority basis. It is further made clear that in case the area is not vacated by 15.02.2005, it will be for the respondents to obtain necessary police assistance for clearing of the market for the purpose of raising construction.

5. In the result, writ appeal is disposed of. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 02.02.2005.

VRK.

Note:

Furnish cc in two days.

(B.O)

To

1 The Commissioner, Municipal Council, Bhainsa, Adilabad District.
2 The Chairman, Municipal Council, Bhainsa, Adilabad District.

3. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.A.NO. 156 OF 2005.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 02.02.2005.